IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 8642 of 2007(D)

PETITIONER:

GOPALAKRISHNAN NAIR, S/O. BHASKARAN NAIR, POTHIYIL, KALAMBOOR, PIRAVOM, ERNAKULAM DISTRICT.

BY ADV. SRI.M.S.AJITH
SRI.P.FAZIL
SMT.JAYASREE MANOJ
SRI.SREEJITH V.S.

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY.

2. DISTRICT COLLECTOR, ERNAKULAM DISTRICT.

3. PROJECT OFFICER, KERALA WATER AUTHORITY, KOWDIAR P.O., VELLAYAMBALAM, THIRUVANANTHAPURAM.

4. SPECIAL TAHSILDAR MVIP, ANCHALPPETTY, PIRAVOM VILLAGE, MUVATTUPUZHA, ERNAKULAM DISTRICT.

BY GOVERNMENT PLEADER SHRI BENNY VARGHESE
BY ADV. SRI.BABU VARGHESE, SC, KWA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE REPRESENTATION DATED 10.1.2007 SUBMITTED BY THE PETITIONER TO RESPONDENTS 1 TO 3.

EXHIBIT P2 TRUE COPY OF THE PLAN.

EXHIBIT P3 TRUE COPY OF THE JUDGMENT DATED 1.8.2003 IN LAR NO.29/2000 AND 31/2000.

EXHIBIT P4 TRUE COPY OF THE AUCTION ADVERTISEMENT DATED 22.1.2007.

RESPONDENTS' EXHIBITS: NIL

K. PADMANABHAN NAIR, J.

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Dated this the 16th day of August, 2007

J U D G M E N T

The main prayer in this Writ Petition is to quash Exhibit P1 representation filed by the petitioner himself.

2. Petitioner is the owner of 18 cents of land comprised in Sy. No.815/5-6 of Piravom Village. A portion of that property was acquired. It is averred that there was a building in that property and a portion of that building was also acquired. The grievance of the petitioner is that he made several requests to the Land Acquisition Officer to acquire whole of the building as provided under Section 49(1) of the Land Acquisition Act. But no decision was taken by the Land Acquisition Officer.

3. Though the prayer is to quash Exhibit P1, petitioner seeks a direction to the Land Acquisition Officer to acquire the remaining portion of the building also.

4. Respondents filed a counter affidavit. It is contended that acquisition proceedings were over before 18.8.1998 and award was passed on that day. Before passing

of the award, petitioner never made any claim for acquisition of the entire building. It is also contended that what was acquired was a lien attached to the building and not any substantial portion of the building. Petitioner received the amount awarded and based on a request made by the petitioner, the matter was referred to the competent Sub court for considering the claim for enhancement. The Sub court numbered the case as LAR No.29 of 2000 and enhanced land value was awarded. It is also contended that the LAR was disposed of on 1.8.2003. Even according to the petitioner Exhibit P1 representation was filed on 10.1.2007 and it was highly belated.

5. Exhibit P3 produced by the petitioner himself shows that land and portion of the building were acquired in the year 1998. Petitioner accepted the compensation awarded under protest and the matter was referred to the Sub Court for considering enhancement of land value. As already stated reference was answered as early as on 1.8.2003 and Exhibit P1 was filed only on 10.1.2007. According to the petitioner after demolishing the unacquired portion of the building he intend

to construct a building therein. In view of the lapse of time, I do not find any justification in invoking extraordinary jurisdiction conferred on this Court under Article 226 of the Constitution of India to direct the respondents to acquire the remaining portion of the building also. There is absolutely no merits in the Writ Petition and the same is only to be dismissed.

In the result, Writ Petition is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 8642 OF 2007

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J U D G M E N T

16TH AUGUST, 2007